

INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend Sections 3290 and 3315 of the California Code of Regulations (CCR), Title 15. The purpose of these regulations is to implement a department-wide/ standardized Mandatory Random Urinalysis Program (MRUP), and increase sanctions for drug use in prison, thereby enhancing the safety and security of CDCR institutions, staff, and inmate population and increasing the inmates' abilities to successfully complete substance abuse treatment programs. The presence of illegal narcotics in institutions reinforces the strength of prison based gangs, leads to inmate-on-inmate violence due to drug dependency, and increases the possibility of inmate-on-staff attacks because of the reduced inhibition effects of some drugs. There were over 4000 documented incidents recorded in 2013 related to drugs in our prisons.

In June 2013, the California Department of Corrections and Rehabilitation (CDCR) conducted blind baseline urine testing of 25 percent of the inmate population. The results confirmed nearly 23 percent of the inmates who voluntarily participated tested positive for one or more illicit drugs. Approximately 30 percent of inmates randomly selected to voluntarily test declined to do so even though there were no disciplinary actions taken against inmates testing positive.

Based on the 2013 test results, the Department must do more to reduce the availability of and use of drugs in the prison system. Therefore, the Department seeks to move forward with the implementation of various drug interdiction strategies, which includes a MRUP to measure their success. These regulations will require each CDCR institution to implement a MRUP. Increased random urinalyses in the institutions, coupled with other drug and contraband interdiction strategies, such as increased sanctions will act as a deterrent to the use of illicit drugs. Information regarding CDCR's Division of Adult Institutions (DAI) drug related incidents for 2013 and the DAI Urinalysis baseline testing (2013) can be viewed on the Department's website at http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Offender_Information_Reports.html

Economic Impact Assessment:

The Department has determined that the proposed regulation will have no impact on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business within the State of California, or the health and welfare of California residents, worker safety, and the State's environment.

The Department has made an initial determination that no reasonable alternatives to these regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (section 17561) of Division 4.

Consideration of Alternatives:

The Department must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department has made an initial determination that no reasonable alternatives to these regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

Mandatory Random Urinalysis is the best method for monitoring and tracking the progress and impact of the Department's goal of drug interdiction. Currently, no reasonable alternatives have been brought to the attention of the Department that would alter the Department's initial determination.

ECONOMIC IMPACT ASSESSMENT:

In accordance with Government Code Section 11346.3(b), the Department of Corrections and Rehabilitation (CDCR) has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs within the State of California

The implementation of Mandatory Random Urinalysis Program has no effect on the creation or elimination of jobs within California because they are not affected by the internal management of prisons. The department recognizes that fluctuation may occur in the use of the labs initially; however, the implementation will not cause any significant impact.

Creation of New or Elimination of Existing Businesses within the State of California

The implementation of Mandatory Random Urinalysis Program has no effect on the creation of new or elimination of existing businesses within the State of California because they are not affected by the internal management of prisons.

Expansion of Businesses or Elimination of Existing Businesses within the State of California

The implementation of Mandatory Random Urinalysis Program has no effect on the expansion of businesses or the elimination of existing businesses within the State of California because they are not affected by the internal management of prisons.

Benefits of the Regulations

The benefit of these regulations to implement a Mandatory Random Urinalysis Program (MRUP), and increase sanctions for drug use in prison, is to enhance the safety and security of CDCR institutions, staff, and inmate population and increase the inmates' abilities to successfully complete substance abuse treatment programs. The proposed regulations have no effect on the health of California residents, nor do they affect worker safety, or the State's environment.

Materials Relied Upon:

COMPSTAT DAI Analysis- Drug Related Incidents 2013

- http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Offender_Information_Reports.html

2013 DAI Urinalysis baseline testing COMPSTAT Analysis

- http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Offender_Information_Reports.html

Specific Purpose and Rationale for each Section, per Government Code 11346.2(b) (1):

Article 2, Security

Section 3290, Methods for Testing of Controlled Substances of for Use of Alcohol

Subsection 3290 (a) is unchanged.

Subsection 3290 (b) is amended to add Field tests of urine samples may be performed as a screening process prior to laboratory testing. This is necessary to reduce the cost to institutions for testing urine samples, for any institution having available field testing equipment and processes, as only samples which test positive in the field test will be sent out for laboratory testing to confirm the results.

Subsection 3290 (c) (4) is amended to clarify that inmates will be required to submit urine samples as part of the Mandatory Random Urinalysis Program testing requirements. The department's Strategic Offender Management System will produce random selections of a small percentage of inmates (approximately 2.3 percent), who shall provide a sample for testing each time they are selected. Inmates will not be subject to additional disciplinary action for a positive test if that positive test is cumulative evidence of a previously charged disciplinary action.

Subsection 3290 (d) is unchanged.

Subsection 3290 (e) is adopted to add new language and the previous (e) is changed to (f). Adoption of this language is necessary to allow inmates to accept the results of urine field tests for purposes of expediting the disciplinary process rather than delaying the disciplinary process until official laboratory results are obtained. Currently, inmates are already allowed to accept the results of a field test for a seized substance that is suspected of being a controlled substance. Now inmates will have the same option for field test results of urine samples.

Subsection 3290 (f) is amended to clarify that a field test is an on-site drug test and to state that although field testing of seized substances that are suspected of being a controlled substance are presumptive in nature, they can be used not only for screening purposes but also to charge the inmate with a serious rules violation.

Subsection 3290 (f) is changed to (g).

Subsection 3290 (g) is changed to (h).

Subsection 3290 (h) is changed to (i).

3315. Serious Rule Violations.

Sections 3315 through 3315 (f)(5)(I)(3) remain unchanged

Subsection 3315 (f) (5) (J) is amended to add additional progressive disciplinary actions for drug related offenses. These actions will provide additional deterrents to in prison drug use and will help incentivize those inmates who chose to remain drug free.

Subsections 3315 (f) (5) (K) through 3315(g) remain unchanged.